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PageData is a CMRS telecommunications provider in Idaho. We have direct experience in dealing with Qwest Communications with interconnection agreements and contractual relations. Qwest wants "aspects of their contractual relationships to take effect without regulation" (page 12 of Qwest's Petition). This opens up discrimination that is contrary to the Telecommunications Act.

The Commission's TSR Order concerned three paging carriers that had filed petitions seeking relief from the Commission for various grievances that they had against US West/Qwest. Qwest had promised that it would give refunds for overcharges to paging carriers but very few paging carriers have received these refunds without going through a long drawn out legal process. After the issuance of the TSR Order, Qwest selectively made settlement agreements with paging carriers that have not been made available to the other carriers. PageData filed a complaint with the Idaho Public Utility Commission for discrimination by Qwest and requested refunds for payments that PageData had made for Qwest-delivered traffic. The Idaho Commission did not want to address the discrimination issue because Qwest said they had no secret agreements. Qwest was ordered to give a refund for Qwest originated traffic.

Qwest had signed multi-state interconnect agreements with several nationwide paging carriers. Qwest did not feel that they needed to be filed in each state they affected. Therefore these interconnect agreements were not filed with the Idaho Public Utility Commission until after we filed our complaint. During those proceedings Qwest personnel disclosed that they had made secret settlements for refunds with other paging carriers that were better than settlements they were offering us. These secret settlements for refunds facilitated the other paging carriers to sign interconnect agreements going forward. In the TSR Order Qwest volunteered to start giving refunds. They have discriminated by only giving the better refunds to selective carriers.

As mentioned by Qwest's attorneys Hogan & Hartson, on page 6 of their Petition, "Potential discrimination issues as to the latter, should any arise, may be addressed after the fact" shows the real intent of this request and how lightly Qwest takes business discrimination and pricing issues. If the discrimination issues must be dealt with after the fact, it makes it much more expensive for the entity discriminated against. If Qwest was really open and the

FCC wants to approve this order then Qwest should be required to disclose the settlement agreements they made with other paging carriers. We are entitled to the same settlement.

On page 8 of Qwest's Petition, "Uncertainty also empowers jurisdictions that may assert an overbroad interpretation of the filing requirement that conflicts with the Act's deregulatory, procompetitive objectives." It is far better to trust publicly elected and appointed state Commissioners that are operating in the open with filed documents and agreements with the competitive process than to trust the ILECS who have been deposing at every turn the Telecommunications Act of 1996.

Arch Wireless had a multi-state agreement with Qwest and Qwest felt they were not required to file it in Idaho. State law requires the agreements to be filed. Qwest used the multi-state status as a reason not to file the agreement. This gives small rural states that do not have large Public Utility Commissions a disadvantage. So, when PageData wanted to look at available and agreed upon interconnection agreements the Arch contract was not on file with the Idaho Public Utility Commission. It did not get filed until we filed a complaint with the Idaho Public Utility Commission. Therefore, we did not have equal opportunity to adopt the same type of agreement or "pick and choose" sections.

On page 12 of Qwest's Petition, they say "But other aspects of their contractual relationship can take effect without regulation." Those other aspects of the contractual relationship may be a reason why a company would sign an Interconnection Agreement, but other companies would not be privy to that information or know if they are given the same opportunity. They are already taking this standpoint and trying to get the FCC to approve it. They want different side-bar arrangements with certain companies and do not want to post them for all to see. The other carriers may have more money to go through arbitration or other negotiations to get better agreements than the small carriers. The purpose of the Telecommunications Act of 1996 was to promote competition and open up the market for telecommunications providers.

Qwest, as an incumbent LEC and competitor to both CLEC and CMRS industry, has a strong economic incentive to preserve its traditional monopoly and to resist the openness that is required by the Telecommunications Act. Qwest's failure to file all documents that have to do with the contractual relationship places the burden on the discriminated Carrier and this practice provides an unfair competitive advantage for ILECs to have unpublished contractual relationships.

We are only giving an example of the many possible abuses. We gave this example because this case is on record under oath at the Idaho Public Utility Commission from Qwest personnel that substantiates this. There are many more that could be brought to light as well.

Every carrier is entitled to the same treatment and pricing. In order to ensure this, the system must remain open and publicly available. We have had to spend tens of thousands of dollars trying to get access to agreements that should have already been publicly

available.

We are formally asking the Commission to formally ask Qwest to give us a copy of the secret settlements and opportunity to have the same settlement the other paging carriers received. We believe that Qwest will continue to stonewall and obfuscate their obligation not to discriminate. Qwest's response to such a request will show the ramifications of approving Qwest's Petition for Declaratory Ruling. This would allow Qwest and other ILECs to openly discriminate. We would rather trust appointed and elected Commissioners from each state for equal treatment than the ILECs.

We are not opposed to faster approval but this methodology is a different issue. The passage of Qwest's Petition would not speed up the approval process for contracts nor make it open and nondiscriminatory.

One cannot go wrong by trying to have as much openness in a process as possible. Granting this Petition would be anti-competitive and goes against the heart of what the Telecommunications Act was all about.